

regional state committees to determine how such rights should be allocated to current customers based on current uses of the grid. Varying approaches to FTR allocation need not create "seams" with neighboring regions.

- The proposed rule was too prescriptive in substance and in implementation timetable, and did not sufficiently accommodate regional differences.

As discussed above, we intend to adopt a Final Rule that allows for phased-in implementation and sequencing tailored to each region and that allows modifications to benefit customers within each region. To the extent that it can be demonstrated to the Commission that the costs of implementing any feature of the Final Rule outweigh its benefits, the Commission will not require the RTO or ISO to implement that feature. Before issuing a Final Rule, we intend to convene technical conferences with state commissioners and market participants in each region to discuss which aspects of the platform (if any) have not already been addressed and the timeline, sequence and budget for moving forward.⁶ Also, as discussed in Appendix A, each RTO or ISO would provide a forum for state representatives to participate in the RTO's or ISO's decisionmaking process. That forum is referred to as the regional state committee.

- The proposed rule did not provide sufficient clarity on cost recovery for investment in new transmission facilities.

Each RTO or ISO will be required to have a clear transmission cost recovery policy outlined in its tariff. We will look to the RTO or ISO and the regional state committee to determine the appropriate regional approach for allocating the costs of new transmission. Regions may differ on the extent to which they want to rely on participant funded expansions; this difference need not create "seams" with neighboring regions. Because this issue is such an important one in stimulating appropriate investment by both existing and new transmission companies, we will allow an RTO or ISO to implement such policies once there is a regional planning process through which an independent entity performs all necessary facilities studies and

determines cost responsibility for the required transmission upgrades.⁷

Wholesale Market Platform

The Commission believes that certain elements need to be in place for well-functioning wholesale markets.

Regional Independent Grid Operation

Order No. 2000 required that all RTOs meet four minimum characteristics: independence, scope and regional configuration, operational authority, and short-term reliability. The Final Rule will reaffirm the need for these characteristics. In particular, the lack of independence continues to plague electricity markets because it provides an incentive for those who own generation and operate transmission facilities to operate the transmission system in ways that exclude competing generation suppliers and can allow the exercise of market power. This conflict of interest cannot be remedied through oversight and enforcement. Rather, structural separation of transmission operation from other wholesale market activities is required to eliminate the ability for such manipulation.

Regional operation is critical for both reliability and efficiency because power flows freely throughout regional grids. Order No. 2000 said "the scope and configuration of the regions in which the RTOs are to operate will significantly affect how well they will be able to achieve the necessary regulatory, reliability, operational and competitive benefits." However, in the Final Rule we will allow flexibility on scope and configuration for ISOs. RTOs and ISOs are developing methods of interregional coordination that allow separate control, but a single market from the customer's perspective. Therefore, in the Final Rule we will not require ISOs to meet the scope and regional configuration requirement. However, all must actively pursue interregional coordination between RTOs and ISOs, including the elimination of the payment of multiple access fees for transactions that cross ISO and RTO borders.

Order No. 2000 required that the RTO be the sole provider of transmission service and sole administrator of its own open access tariff. Included in this is the requirement that the RTO have the sole authority for the evaluation and approval of all requests for transmission

service including requests for new interconnections. The Final Rule will reaffirm these requirements.

Regional Transmission Planning Process

Regional planning of the transmission grid is essential to ensure the most effective use of the interconnected grid facilities. The RTO or ISO is in a unique position to discern regional needs and address factors inhibiting investment in transmission and generation through conducting a region-wide planning process. As required in Order No. 2000, the Final Rule will require the RTO or ISO to produce technical assessments of the regional grid and support the state siting authorities or multi-state entities by performing necessary studies. The purpose is to assist the states and market participants by giving an independent assessment of the transmission facilities needed by the region to reliably and economically serve load located within the region. How the RTO or ISO, state commissions, transmission owners, and other market participants participate in the process will be decided regionally. By administering the regional tariff, RTOs and ISOs also provide the critical link to a cost recovery mechanism for regional transmission expansions. The Final Rule would require RTOs and ISOs to have a regional planning process in place as soon as practicable.

Fair Cost Allocation for Existing and New Transmission

The costs associated with the existing grid, other than those directly assigned, will continue to be recovered through rates paid by customers. To avoid having customers pay multiple, cumulative charges for transmission service across multiple utility grids in a region, the rate paid by a customer should permit that customer to have access to the entire region at a single rate. As discussed in Appendix A, regional state committees may agree on the form of access charge that will be filed by the RTO or ISO under section 205 of the Federal Power Act. That means the committee will decide whether to propose to move to a uniform rate for transmission service throughout the region (known as postage stamp rates), or whether to propose to maintain single, but different access charges depending on where power is taken off the grid (known as license plate rates).⁸

⁶ To avoid the reliability and operational problems that result when some parts of the grid do not participate in RTO or ISO functions, we strongly encourage regional decision-making on RTO or ISO implementation through regional state committees, stakeholder committees, and other authorities in the region.

⁷ In Appendix A, we explain that allowing participant funding on the basis of having an independent entity perform transmission planning and related cost allocation is a transitional approach that could be used in anticipation of the RTO or ISO assuming operational control of the regional transmission grid within one year.

⁸ Under license plate rates, the single access charge is usually based on each transmission owners' service area.